

#### § 780.4

#### 7 CFR Ch. VII (1–12 Edition)

applicable, or a designee, from determining at any time any question arising under the programs within their respective authority or from reversing or modifying any decision made by a subordinate employee of FSA or its county and State committees, or CCC.

##### § 780.4 Applicability.

(a)(1) Except as provided in other regulations, this part applies to decisions made under programs and by agencies, as set forth herein:

(i) Decisions in programs administered by FSA to make, guarantee or service farm loans set forth in chapters VII and XVIII of this title relating to farm loan programs;

(ii) Decisions in those domestic programs administered by FSA on behalf of CCC through State and county committees, or itself, which are generally set forth in chapters VII and XIV of this title, or in part VII relating to conservation or commodities;

(iii) Appeals from adverse decisions, including technical determinations, made by NRCS under title XII of the Food Security Act of 1985, as amended;

(iv) Penalties assessed by FSA under the Agricultural Foreign Investment Disclosure Act of 1978, 5 U.S.C. 501 *et seq.*;

(v) Decisions on equitable relief made by a State Executive Director or State Conservationist pursuant to section 1613 of the Farm Security and Rural Investment Act of 2002, Pub. L. 107–171; and

(vi) Other programs to which this part is made applicable by specific program regulations or notices in the FEDERAL REGISTER.

(2) The procedures contained in this part may not be used to seek review of statutes or regulations issued under Federal law or review of FSA's generally applicable interpretations of such laws and regulations.

(3) For covered programs, this part is applicable to any decision made by an employee of FSA or of its State and county committees, CCC, the personnel of FSA, or CCC, and by the officials of NRCS to the extent otherwise provided in this part, and as otherwise may be provided in individual program requirements or by the Secretary.

(b) With respect to matters identified in paragraph (a) of this section, participants may request appealability review, reconsideration, mediation, or appeal under the provisions of this part, of decisions made with respect to:

(1) Denial of participation in a program;

(2) Compliance with program requirements;

(3) Issuance of payments or other program benefits to a participant in a program; and

(4) Determinations under Title XII of the Food Security Act of 1985, as amended, made by NRCS.

(c) Only a participant directly affected by a decision may seek administrative review under § 780.5(c).

##### § 780.5 Decisions that are not appealable.

(a) Decisions that are not appealable under this part shall include the following:

(1) Any general program provision or program policy or any statutory or regulatory requirement that is applicable to similarly situated participants;

(2) Mathematical formulas established under a statute or program regulation and decisions based solely on the application of those formulas;

(3) Decisions made pursuant to statutory provisions that expressly make agency decisions final or their implementing regulations;

(4) Decisions on equitable relief made by a State Executive Director or State Conservationist pursuant to Section 1613 of the Farm Security and Rural Investment Act of 2002, Pub. L. 107–171;

(5) Decisions of other Federal or State agencies;

(6) Requirements and conditions designated by law to be developed by agencies other than FSA.

(7) Disapprovals or denials because of a lack of funding.

(8) Decisions made by the Administrator or a Deputy Administrator.

(b) A participant directly affected by an adverse decision that is determined not to be subject to appeal under this part may request an appealability review of the determination by the State Executive Director of the State from which the underlying decision arose in accordance with § 780.15.